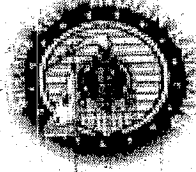


RBE No.-----



PCPO's SI.No.74/2019

No. E/Misc/O/ECR/HJP

Dated:- 29.04.2019

1. CAO (Con.) / उत्तर एवं दक्षिण / पटना ।
2. सभी PHOD/CHOD, पू.म.रे, हाजीपुर ।
3. DRM/ पू.म.रे / मुगलसराय, दानापुर, धनबाद, सोनपुर एवं समस्तीपुर ।
4. मुख्य कार्मिक अधिकारी / प्रशासन / पू.म.रे / हाजीपुर ।
5. मुख्यालय के सभी कार्मिक अधिकारी ।
6. CW/M/ पीडी / मुगलसराय, यांत्रिक कारखाना / समस्तीपुर / हरनौत ।
7. Sr.DPO/ पू.म.रे / मुगलसराय, दानापुर, धनबाद, सोनपुर एवं समस्तीपुर ।
8. उप महाप्रबंधक / विधि / पटना ।
9. प्राचार्य / क्षेत्रीय रेल प्रशिक्षण संस्थान / मुजफ्फरपुर एवं भूली ।
10. सभी मुकार्याधी / कार्याधी / पू.म.रे / हाजीपुर ।

विषय : Order dated 19.03.2019 of Central Administration Tribunal; Principal Bench, New Delhi in OA no. 819 of 2019 and MA no. 916 of 2019 in case of Shri Anil Kumar & others Vs Ministry of Railway & others.

संदर्भ : Railway's Boards Lt. No.E(NG)II/2019/RR-1/5 Dated: 10.04.2019

विषयांकित से संबंधित संदर्भित पत्र की छायाप्रति सूचना, मार्गदर्शन एवं अग्रेत्तर आवश्यक कार्रवाई हेतु प्रेषित की जा रही है।

A copy of above referred letter on the subject matter is being forwarded herewith for information guidance and needful onward action please.

संलग्नक : यथोपरि।

DA : As above.

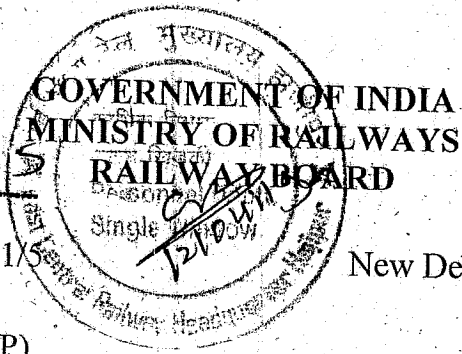
(सौरभ सावर्ण) 29.4.19
वकाधि / आई.आर.एण्ड.डब्ल्यू
कृते महाप्रबंधक (कार्मिक) / हाजीपुर

प्रतिलिपि सूचनार्थ, मार्गदर्शन एवं आवश्यक कार्रवाई हेतु प्रेषित :-

1. महासचिव / ई.सी.आर.के.यू. / पू.म.रे. / हाजीपुर ।
2. महासचिव / एस.ओ.सी.ओ. / एस.ओ.टी.ओ. / एशोसिएशन / पू.म.रे. / हाजीपुर ।
3. सहायक (एम.पी.पी.) पू.म.रे / हाजीपुर । कृपया इसे नेट पर अपलोड कराने की व्यवस्था करें।
4. महासचिव / ओ.बी.सी.एशोसिएशन / पू.म.रे. / हाजीपुर ।

महाप्रबंधक (प्रशासन) कार्यालय
पूर्व-मध्य रेल, हजरीपुर

ECR 12 APR 2019



रेलवे बोर्ड का पत्र प्राप्ति सं० 0

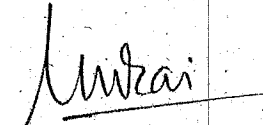
No. E(NG)II/2019/RR-1/5

New Delhi, dated: 10.04.2019

The General Manager (P)
All Zonal Railways.

Sub: Order dated 19.03.2019 of Central Administration Tribunal, Principal Bench, New Delhi in OA no. 819 of 2019 and MA no. 916 of 2019 in case of Shri Anil Kumar & others Vs Ministry of Railway & others.

Please find enclosed a copy of Order dated 19.03.2019 of Central Administration Tribunal, Principal Bench, New Delhi in OA no. 819 of 2019 and MA No. 916 of 2019 in case of Shri Anil Kumar & others Vs Ministry of Railway & others for guidance in similar cases on your Railways.


(M. M. Rai)
Jt. Director Estt.(N) II
Railway Board

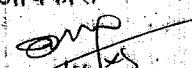
Encl : As above

(cont/cell)

Chas/Rajiv
please circulate
10/4/19

SK/MIA

- मुकाबि
- मुकाबि प्रशा
- मुकाबि/आईआर
- उप मुकाबि/राज
- उप मुकाबि/म
- उप मुकाबि/आईआर
- वकाबि
- सकाबि
- विधि अधिकारी


12/4/19

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.819 OF 2019
M.A. No.916 OF 2019

This the 19th day of March 2019

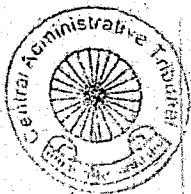
Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)

1. Anil Kumar, Age 31,
S/o Devi Sharan Singh,
Vill.Dariapur, PO-Hastinapur,
Meerut, UP-250404, Group-D
2. Aiyab Khan, Age 42
S/o Guttikha,
Vill. Mahrana, PO-Nangalkhanjadi,
Distt. Alwar, Rajasthan-321607, Group D
3. Balram Saini, Age 39,
S/o Ramchandra Saini,
Udaipur Wati, Papra Kalan,
Distt. Jhunjhunun,
Rajasthan-333801, Group D
4. Prakash Kumar Saini, Age 36,
S/o Mangla Ram Saini,
Distt.-Jhunjhunun-Vill.&PO-GughaGorji,
Rajasthan-333022, Group D
5. Vipin Kumar, Age 29,
S/o Dhrampal Singh,
Vill.&PO-Janjokar Meerut,
Meerut-250340, Group-D
6. Brij Mohan Jandu, Age-38,
S/o Ram Lal Jandu,
03, Khachriyavas, Sikar,
Rajasthan-332710, Group D
7. Jagdish Prasad Yogi, Age 34,
S/o Laxman Yogi,
Vill.-Salpur, Distt.-Alwar
Rajasthan-301001, Group D



WJ

8. Body, Age 34
S/o Nakli Ram,
House No.339, Ward No.17,
Adarsh Nagar, Yamunanagar,
Yamunanagar, Haryana-135001, Group D
9. Arvind Kumar Dhiman, Age-42,
S/o Roop Chand,
House No.578, Ward No.15
Jaswant Colony, Yamunanagar,
Haryana-135001, Group -D
10. Vikas Kumar, Age 32,
S/o Suresh Singh,
Vill.-Kamheda, PO-Gangoh,
Distt.-Sarahanpur, UP-247341, Group-D
11. Naveen Kumar, Age 28,
S/o Jai Ram,
Vill. Rajnagar, Neem-Ka-Thana,
Distt.-Sikar, Rajasthan-332713, Group-D
12. Manoj Kumar Maurya, Age 30,
S/o Kanhiya Maurya,
Vill-Ismailpur,
Azamgargh, UP-276001, Group D
13. Anarjeet, Age 33,
S/o Jattan Ram,
House No.14, TalabDevnai,
PO-Bilariyaganj, Tehsil-Sagadi,
Kakaraheedular Azamgargh,
UP-276121, Group D
14. Dharmendar Kumar, Age 32,
S/o Mundar Shah,
R-3/110A, Gali No.5, Mohan Garden,
West Delhi-110059, Group-D
15. Rajeev Kumar, Age 32,
S/o Mahendra Singh,
Vill-Bahloipur, Bhagwanpur, Vaishali,
Distt.-Bihar-844114, Group D
16. Santosh Kumar Yadav, Age 18
S/o Mantlal Yadav,
Vill. DolabandhAnchal-Belhar,
Distt. Banka-813212, Group D



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17. Mahesh Kumar, Age 30
S/o Lal Singh,
Vill. Lodhana, PO GarhiBolni,
Distt. Rewari, Haryana-123401, Group D
18. Sunil Dutt Yogi, Age 32,
S/o Chittar Mal Yogi,
Vill-DhaniDayama, PO-Ram Maraj Pura,
Teh-Kotputali, Distt. Jaipur,
Rajasthan-303105, Group D
19. Manoj Kumar, Age 35,
S/o Dharmavir Singh,
Tehsil Badot, Distt. Baghpat,
304, Badarkha-3, Badarkha,
UP-250617, Group D
20. Tarun Kumar, Age 35,
S/o Satish Kumar,
E-468A HardevPuri Gali No.6,
Shahdara, North East Delhi-110093,
Group D
21. Abishek Kumar, Age 36,
S/o Jagdish Thakur,
GauraiyaSthan Lal Imli,
Patna City, Patna,
Bihar-800009, Group D
22. Manoj Kumar, Age 29,
S/o Dharm Pal Singh,
PO-Todda, Distt. Samli,
Uttar Pradesh-247778, Group D
23. Balram Kumar, Age 27,
S/o Rajendra,
Vill.-Ghataro, Distt. Vaishali,
PO-Ghataro, Bihar-844119, Group D
24. Jitendra Kumar, Age 32,
S/o Rohitash,
Vill.&PO-Karaudha Mahajan,
Tehsil-Budana, Distt.-Muzaffarnagar,
UP-247776, Group D

(By Advocate : Shri Sudhir Nagar)

....Applicants

VERSUS



1. Union of India,
Through Secretary,
Ministry of Railways, Rail Bhavan,
Office at:-256-A, Raisina Road, Rajpath Area,
Central Secretariat, New Delhi-110001
2. Northern Railway,
Through its General Manager,
Office at: NDCR Building
State Entry Road, New Delhi.
3. Chairman,
Railway Recruitment Cell (RRC)
Northern Railway,
Office at: Lajpat Nagar-I,
New Delhi-24

.....Respondents

ORDER (Oral)

Ms. Nita Chowdhury, Member (A):

Heard learned counsel for the applicants.

2. MA 916/2019 filed by the applicants for joining together in a single Original Application is allowed for the reasons stated therein.

3. By filing this OA, the applicants are seeking the following reliefs:-

- A. Pass appropriate order directing the respondents to offer appointment to the applicants by exhausting the list of extra candidates prepared for the posts as advertised vide Emp. No.220 E/Open Mkt/RRC/2010 and/or;
- B. Pass such other order(s) or direction(s) as may be deemed fit and proper in the facts and circumstances of the case."

3. When this matter is taken up for hearing, this Court raised a query to learned counsel for the applicants to show the any adverse order which has been passed in this case or

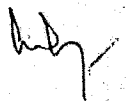


hdy

when cause of action arose in favour of the applicants, as according to the them if their names were included in the list of 20% extra candidates prepared by the respondents for filling up 11439 various posts in the pay scale of Rs.5200 - 20,200/- + Grade Pay of Rs.1800/- by the Railway Recruitment Board advertised vide notification dated 17.12.2010. However, the counsel for the applicants has not been able to give any plausible reply to the same.

4. According to the applicants averment, if certain vacancies were not filled up in a particular year, that too in relation to the recruitment drive, which was commenced pursuant to the aforesaid notification dated 17.12.2010, how the same give them a cause of action to file this OA in 2019 i.e. after expiry of more than eight years is not at all explained by them in this OA. They merely stated that vide advertisement dated 12.12.2017, the respondents have again sought applications for filling up vacant posts in Northern Railway and hence, ask for their consideration against previously existing vacancies as they had participated in the recruitment issued by respondents in 2010.

5. Counsel for the applicants placed reliance on the judgment of the Hon'ble Supreme Court in the case of ***Dinesh Kumar Kashyap and others etc. vs. South East Central Railway and others etc.*** in Civil Appeal No.11360-11363 of 2018, dated 27.11.2018. We have carefully perused the same,



the benefit of the said judgment by the Hon'ble Supreme Court was directed to be available to those appellants who had approached the Central Administrative Tribunal. It is not the case of the applicants in the present OA that they were parties in the case preferred by those appellants before this Tribunal earlier. As such the benefits of the said judgment, which was made specifically applicable to those who were appellants before this Tribunal, cannot be extended to those who now approach the Tribunal at this belated stage. It is further relevant to mention that Hon'ble High Court of Delhi in Writ Petition (Civil) No. 10489/2015 on 18.05.2016, titled **Hariom, Head Constable Vs. The Commissioner of Police and Ors**, had by placing reliance on the Hon'ble Supreme Court judgment held that the applicant in that case was a fence-sitter had approached the Court after a long delay and hence he is not entitled to any relief. Relevant para 11 of the said judgment of the Hon'ble High Court is extracted below:-

"11. The petitioner relies on **State of Uttar Pradesh and Ors. Vs. Arvind Kumar Srivastava and Ors.** (2015) 1 SCC 347. Having examined the factual matrix, we observe that the petitioner had failed to act at the relevant time and had woken up after a long delay, whereas his two counterparts in the Delhi Police had approached the Court at an earlier point of time and after a long battle had succeeded in August, 2013. The petitioner should not be given the benefit of the judgment as he was a fence sitter. In the meantime, in 2012, another examination was held, and vacancies were filled. We have already observed that the petitioner cannot claim any right on the vacancies or new posts of Sub Inspectors (Exe.) created post the vacancies, included in the Phase II, 2009 examination. There are

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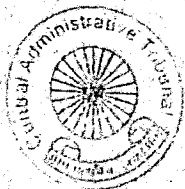
other pertinent reasons as to why the bar of limitation would be attracted. As per the list available at page No.138 of the paper book, there were at least fifteen other departmental candidates, who had secured marks between 155 and 163 i.e., marks of the last open category general candidate and the last selected candidate under 10% departmental quota. Two unsuccessful candidates had approached the Tribunal in 2010 and order dated 22nd August, 2013 has been passed in their favour. Thirteen others including the petitioner would be entitled to a similar benefit in case the present writ petition is allowed. The respondents would have to redo and rework the entire exercise of finding out who would or would not have qualified from the open category. Law of limitation, sometimes perceived as technical and iniquitous, serves an important public purpose. It ensures certainty and negates ill effect when settled positions are sought to be altered. At the distinct point of time in 2014, about four years after the results of the 2009 examination were declared, the said exercise would create unforeseen complications and possibly litigation on issues like seniority. The open category candidates selected in the 2009 Examination have already joined. They are not impleaded. Question of seniority etc. with those selected in 2009 and 2012 would be an issue. This is not the case of an illiterate or denied person not aware of his rights, who for economic and social reasons possibly had limited resources or had hesitated in approaching courts/ tribunals/authorities."

6. In view of the above facts and circumstances of the case and for the foregoing reasons, we do not find any merit in this case and the same is accordingly dismissed *in limine*.

M

(S.N. Terdal)
Member (J)

/ravi/



(Nita Chowdhury)
Member (A)

Free Copy U/R 22 of C.A.T.
(Procedure Rules)
प्रमाणित सत्यप्रतिलिपि
CERTIFIED TRUE COPY
दिनांक / Dated..... 10/2

28/03/19

अनुभाग अधिकारी (न्यायिक)
Section Officer (Judicial)
केन्द्रीय प्रशासनिक प्राधिकरण
Central Administrative Tribunal
प्रधान न्यायपीठ, नई दिल्ली
Principal Bench, New Delhi